

## OBJECTIVES

Without reference and as discussed in class, the student will be able to:

- Given a scenario, determine if a court security officer was justified in using physical force to protect himself or another, as presented in class



- Given a scenario, determine if a court security officer was justified in using deadly physical force to protect himself or another, as presented in class



## OBJECTIVES

Without reference and as discussed in class, the student will be able to:

- Given a scenario, determine if a court security officer was justified in using either physical force or deadly force to protect property, as presented in class
- Given a scenario, determine if court security officer may use law enforcement authority outside of the courthouse setting, as presented in class



## OBJECTIVES

Without reference and as discussed in class, the student will be able to:

- Given a scenario, identify a court security officer's authority and responsibilities when transporting prisoners for in-county and out of county transports, as presented in class
- Given a scenario, identify proper procedures to be used in handling of evidence, as presented in class





## OBJECTIVES

Without reference and as discussed in class, the student will be able to:

- Given a scenario, determine if a violation of Interference with Judicial Administration statutes has been committed, as presented in class.
- Given a scenario, determine if a violation of Obstruction of Public Administration statutes has been committed, as presented in class



## OBJECTIVES

Without reference and as discussed in class, the student will be able to:

- Given a scenario, determine if a violation of Abuse of Public Office statutes has been committed, as presented in class
- Given a scenario, determine if a violation of Escape and other Offenses Related to Custody statutes has been committed, as presented in class



## Use Of Force – KRS 503

- General Principles of Justification  
AKA Justifiable Use of Force
- when you see the word “**Defendant**”, you should be thinking that this is **YOU**, the law enforcement officer.
- Chapter is applicable to **ALL** persons however!

## KRS 503 provides for:

- when force may be used;
- how much force may be used;
- and who may use it.

## NOTE

Text in **YELLOW**  
are additions or  
changes made by  
the 2006 Kentucky  
legislature



## 503.010 Definitions

The following definitions apply in this chapter unless the context otherwise requires:

- (1) "Deadly physical force" means force which is used with the purpose of causing death or serious physical injury or which the defendant knows to create a substantial risk of causing death or serious physical injury.

- (2) "Dwelling" means a building or conveyance of any kind, including any attached porch, which has a roof over it, including a tent, and is designed to be occupied by people lodging therein at night.



- (3) "Imminent" means impending danger, and, in the context of domestic violence and abuse as defined by KRS 403.720, belief that danger is imminent can be inferred from a past pattern of repeated serious abuse.

- (4) "Physical force" means force used upon or directed toward the body of another person and includes confinement.



- (5) "Residence" means a dwelling in which a person resides either temporarily or permanently or is visiting as an invited guest.
- (6) "Vehicle" means a conveyance of any kind, whether or not motorized, which is designed to transport people or property.

## 503.020 Justification

In any prosecution for an offense, **justification**, as defined in this chapter, is a **defense**.

## 503.040 Execution of public duty

- (1) Unless inconsistent with the ensuing sections of this code defining justifiable use of physical force or with some other provisions of law, conduct which would otherwise constitute an offense is justifiable when it is required or authorized by a provision of law imposing a public duty or by a judicial decree.

- (2) The justification afforded by subsection (1) applies when:

- (a) The defendant believes his conduct to be required or authorized by the judgment or direction of a competent court or tribunal or in the lawful execution of legal process, notwithstanding lack of jurisdiction of the court or defect in the legal process; or

(b) The defendant believes his conduct to be required or authorized to assist a public officer in the performance of his duties, notwithstanding that the officer exceeded his legal authority.



## 503.050 Use of physical force in self-protection

(1) The use of **physical force** by a defendant upon another person is justifiable when the defendant believes that such force is necessary to protect himself against the use or imminent use of unlawful physical force by the other person.

(2) The use of **deadly physical force** by a defendant upon another person is justifiable under subsection (1) **only** when the defendant believes that such force is necessary to protect himself **against death, serious physical injury, kidnapping, or sexual intercourse compelled by force or threat,**

**... felony involving the use of force, or under or under those circumstances permitted pursuant to KRS 503.055.**

(4) A person does not have a duty to retreat prior to the use of deadly physical force



## KRS 503.055 Use of defensive force ...

(1) A person is presumed to have held a reasonable fear of imminent peril of death or great bodily harm to himself or herself or another when using defensive force that is intended or likely to cause death or great bodily harm to another if:

(a) The person against whom the defensive force was used was in the process of unlawfully and forcibly entering or had unlawfully and forcibly entered a dwelling, residence, or occupied vehicle, or if that person had removed or was attempting to remove another against that person's will from the dwelling, residence, or occupied vehicle; and

(b) The person who uses defensive force knew or had reason to believe that an unlawful and forcible entry or unlawful and forcible act was occurring or had occurred.



(2) The presumption set forth in subsection (1) does not apply if:

(a) The person against whom the defensive force is used has the right to be in or is a lawful resident of the dwelling, residence, or vehicle, such as an owner, lessee, or titleholder, and there is not an injunction for protection from domestic violence or a written pretrial supervision order of no contact against that person; or

(b) The person sought to be removed is a child or grandchild, or is otherwise in the lawful custody or under the lawful guardianship of, the person against whom the defensive force is used; or

(c) The person who uses defensive force is engaged in an unlawful activity or is using the dwelling, residence, or occupied vehicle to further an unlawful activity; or

(d) The person against whom the defensive force is used is a peace officer, as defined in KRS 446.010, who enters or attempts to enter a dwelling, residence, or vehicle in the performance of his or her official duties and the officer identified himself or herself in accordance with any applicable law or the person using force knew or reasonably should have known that the person entering or attempting to enter was a peace officer.

(3) A person who is not engaged in an unlawful activity and who is attacked in any other place where he or she has a right to be has no duty to retreat and has the right to stand his or her ground and meet force with force, including deadly force if he or she reasonably believes it is necessary to do so to prevent death or great bodily harm to himself or herself or another or to prevent the commission of a felony involving the use of force.

(4) A person who unlawfully and by force enters or attempts to enter a person's dwelling, residence, or occupied vehicle is presumed to be doing so with the intent to commit an unlawful act involving force or violence.

### 503.060 Improper use of physical force in Self Protection

Notwithstanding the provisions of [KRS 503.050](#), the use of physical force by a defendant upon another person is not justifiable when:

(1) The defendant is resisting an arrest by a peace officer, recognized to be acting under color of official authority and using no more force than reasonably necessary to effect the arrest, although the arrest is unlawful; or

### 503.060 Improper use of physical force in self protection

- (2) The defendant, with the intention of causing death or serious physical injury to the other person, provokes the use of physical force by such other person; or
- (3) The defendant was the initial aggressor, except that his use of physical force upon the other person under this circumstance is justifiable when:

### 503.060 Improper use of physical in Self Protection

- (a) His initial physical force was nondeadly and the force returned by the other is such that he believes himself to be in imminent danger of death or serious physical injury; or
- (b) He withdraws from the encounter and effectively communicates to the other person his intent to do so and the latter nevertheless continues or threatens the use of unlawful physical force.

### 503.070 Protection of another

- (1) The use of physical force by a defendant upon another person is justifiable when:
  - (a) The defendant believes that such force is necessary to protect a third person against the use or imminent use of unlawful physical force by the other person; and

- (b) Under the circumstances as the defendant believes them to be, the person whom he seeks to protect would himself have been justified under KRS 503.050 and 503.060 in using such protection.





(2) The use of deadly physical force by a defendant upon another person is justifiable when:

(a) The defendant believes that such force is necessary to protect a third person against imminent death, serious physical injury, kidnapping or sexual intercourse compelled by force or threat, **or other felony involving the use of force, or under those circumstances permitted pursuant to KRS 503.055**; and

(b) Under the circumstances as they actually exist, the person whom he seeks to protect would himself have been justified under **KRS 503.050** and **503.060** in using such protection.

**(3) A person does not have a duty to retreat if the person is in a place where he or she has a right to be.**

## 503.080 Protection of property

(1) The use of physical force by a defendant upon another person is justifiable when the defendant believes that such force is immediately necessary to prevent:

(a) The commission of criminal trespass, **or robbery, [or] burglary, or other felony involving the use of force, or under those circumstances permitted pursuant to KRS 503.055**, in a dwelling, building or upon real property in his possession or in the possession of another person for whose protection he acts; or

(b) Theft, criminal mischief, or any trespassory taking of tangible, movable property in his possession or in the possession of another person for whose protection he acts.



Willy, the glove thief of Pelham, NY (AP photo)

(2) The use of deadly physical force by a defendant upon another person is justifiable under subsection (1) only when the defendant believes that the person against whom such force is used is:

(a) Attempting to dispossess him of his dwelling otherwise than under a claim of right to its possession; or

(b) Committing or attempting to commit a burglary, **robbery, or other felony involving the use of force, or under those circumstances permitted pursuant to KRS 503.055**, of such dwelling; or

(c) Committing or attempting to commit arson of a dwelling or other building in his possession.

**(3) A person does not have a duty to retreat if the person is in a place where he or she has a right to be.**

## 503.090 Use of physical force in law enforcement

(1) The use of physical force by a defendant upon another person is justifiable when the defendant, acting under official authority, is making or assisting in making an arrest, and he:



(a) Believes that such force is necessary to effect the arrest;

(b) Makes known the purpose of the arrest or believes that it is otherwise known or cannot reasonably be made known to the person to be arrested; and

(c) Believes the arrest to be lawful.

- (2) The use of deadly physical force by a defendant upon another person is justifiable under subsection (1) only when:



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- (a) The defendant, in effecting the arrest, is authorized to act as a peace officer; and

- (b) The arrest is for a felony involving the use or threatened use of physical force likely to cause death or serious physical injury; and

- (c) The defendant believes that the person to be arrested is likely to endanger human life unless apprehended without delay.

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- (3) The use of physical force, including deadly physical force, by a defendant upon another person is justifiable when the defendant is preventing the escape of an arrested person and when the force could justifiably have been used to effect the arrest under which the person is in custody, ...

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except that a guard or other person authorized to act as a peace officer is justified in using any force, including deadly force, which he believes to be necessary to prevent the escape of a person from jail, prison, or other institution for the detention of persons charged with or convicted of a crime.

Union Co., NJ, jailbreak  
(photo - Union Co. Prosecutor's Office)



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- BUT.....Beware!



- At some point the person is no longer trying to escape – he has escaped.
- Once there is a complete escape, force used goes back to that of arresting a fugitive from justice .090(1) and .090(2).

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## CASE LAW and LIABILITY



### Tennessee v. Garner

The Garner case established a key legal parameter on the use of deadly force, but this decision does not resolve all of the issues surrounding the use of deadly force.

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- The amount of force permitted, which was DEADLY FORCE (under the Tennessee statute), now may not be used unless necessary to prevent the escape and the officer has “probable cause” to believe that the suspect poses a significant threat of death or serious physical injury to the officers or others.
- This is the old “Fleeing Felon” rule.

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## Use of Force By a Peace Officer



Force is a law enforcement tool available to peace officers in certain situations, IF NEEDED.

## Use of Force By a Peace Officer

If you misuse force, you may face one or more lawsuits or criminal prosecutions:

Civil suits:

- Tort actions (state law) for
  - personal injury
  - wrongful death
  - property damage
  - etc.

- 42 U.S.C §1983 action  
OR
- Criminal prosecution for
  - assault
  - a homicide
    - murder
    - manslaughter
    - reckless homicide



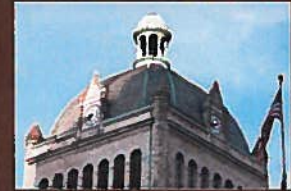
Law Enforcement agencies still have a substantial responsibility in developing their own policies on the use of deadly force;

- training their officers in following these policies to carry out their duties;
- monitoring officer compliance with these policies;
- establishing standard operating procedures for investigating all instances involving the use of deadly force.

## Questions?



## Outside the Courthouse?



What is your legal authority outside the courthouse premises?

## Evidence Handling



In what ways will a CSO be involved in handling evidence?

What are the problems with handling evidence?

What are your responsibilities in handling evidence?

## Statutes of Interest



There are several statutes of particular interest to Court Security Officers.

- Interference with Judicial Administration
- Obstruction of Public Administration
- Abuse of Public Office
- Escape and Related Offenses



## KRS 524 Interference with Judicial Administration

### Definitions

- Judge
- Juror
- Participant in the Legal Process
- Official Proceeding
- Pecuniary Benefit
- Physical Evidence
- Prosecutor
- Threat
- Witness



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## Charges

- Bribing a witness
- Bribe Receiving by a witness
- Intimidating a participant
- Tampering with a witness
- Retaliating against a participant
- Bribing a juror
- Bribe receiving by a juror
- Jury tampering



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## Charges

- Tampering with physical evidence
- Simulating legal process
- Unlawful practice of law
- Disposal of evidence



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## KRS 519 Obstruction of Public Administration

### Definitions

- Governmental function
- Public Record
- Public servant



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## Charges

- Obstructing governmental operations
- Impersonating a public servant
- Impersonating a peace officer
- Tampering with public records
- Tampering with a prisoner monitoring device



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## KRS 522 Abuse of Public Office

- Definitions
- Public Servant
- Benefit



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## Charges

- Official Misconduct (2 degrees)
- Misuse of confidential information



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## KRS 520 Escape

- Definitions
- Contraband
- Custody
- Dangerous contraband
- Detention facility
- Escape
- Penitentiary



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## Charges

- Attempting to escape from penitentiary
- Escape (3 degrees)
- Promoting contraband (2 degrees)
- Bail jumping (2 degrees)
- Resisting arrest
- Fleeing or Evading (2 degrees)



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## Special definitions

There are special definitions for KRS 520.120 and .130

- Rendering assistance



And a Defense .....

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## Charges

- Hindering prosecution



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## Questions?

What  
Questions Do  
You Have?



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